

FILED  
12:43 O'Clock P.M.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI

JEANNE HICKS, Clerk  
By: Rita Storms

DIVISION PRO TEM B

HON. WARREN R. DARROW

By: Diane Troxell, Judicial Assistant

CASE NUMBER: V1300CR201080049

Date: February 15, 2011

TITLE:

COUNSEL:

STATE OF ARIZONA

Sheila Sullivan Polk  
Yavapai County Attorney  
Bill Hughes, Esq.  
Steven Sisneros, Esq.  
Deputy Yavapai County Attorneys

(Plaintiff)

(For Plaintiff)

vs.

JAMES ARTHUR RAY

Thomas K. Kelly, Esq.  
425 E. Gurley  
Prescott, AZ 86301

Luis Li, Esq.  
Brad Brian, Esq.  
Truc Do, Attorney at Law  
Miriam Seifter, Attorney at Law  
MUNGER TOLLES & OLSON LLP  
355 S. Grand Avenue, 35<sup>th</sup> Fl.  
Los Angeles, CA 90071

(Defendant)

(For Defendant)

**RULING ON DEFENDANT'S MOTION IN LIMINE RE: PRECLUSION OF LAY WITNESS  
OPINION ON ULTIMATE ISSUE**

The Court has considered the Defendant's motion, the State's response, and the reply. The parties have not requested oral argument.

On page two of the reply, the Defendant provides examples of the type of testimony that he believes to be improper. The Court agrees that the specific excerpts from the interviews of Randall P and Lou C would not be admissible under Rule 701. Lay-witness opinions to the effect that the Defendant was negligent or careless would not be "helpful to a clear understanding of the witness's testimony or the determination of a fact in issue."

The Court acknowledges that through their pleadings on this issue, the parties have

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alerted the Court to potential issues arising under Rules 701, 702, and 704 of the Arizona Rules of Evidence.

DATED this 15<sup>th</sup> day of February, 2011.

  
**Warren R. Darrow**  
**Superior Court Judge**

cc: Victim Services Division